GUIDELINES FOR EVALUATING PETITIONS FOR TESTING ACCOMMODATIONS BASED ON ATTENTION DEFICIT/ HYPERACTIVITY DISORDER

The diagnostic criteria as specified in the *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition (DSM-IV) are used as the basic guideline for determination of Attention Deficit/Hyperactivity Disorder (AD/HD) diagnosis.

An applicant warranting an AD/HD diagnosis must meet basic DSM-IV criteria including:

- 1. Sufficient numbers of symptoms (delineated in DSM-IV) of inattention and/or hyperactivity-impulsivity that have been persistent and that have been "maladaptive." The exact symptoms should be described in detail.
- 2. Evidence that symptoms of inattention and/or hyperactivity-impulsivity were present during childhood.
- 3. Evidence indicating that current impairment from the symptoms is present in two or more settings. There must be clear evidence of clinically significant impairment within the academic setting. However, there must also be evidence that these problems are not confined to the academic setting.
- 4. A determination that the symptoms of AD/HD are not a function of some other mental disorder (such as mood, anxiety, or personality disorders; psychosis, substance abuse, low cognitive ability, etc.).
- 5. Indication of the specific AD/HD diagnostic subtype; predominantly inattentive type, hyperactive-impulsive type, or combined type.

General AD/HD evaluation guideline considerations:

- Self-report of current and past problems is insufficient to establish a basis for reliable AD/HD diagnosis. Although an in-depth interview is the essential feature of any AD/HD evaluation, other information should be examined to provide a comprehensive evaluation including interviews with significant others and examination of past school records, evaluation reports, job evaluations, transcripts, etc. How this information supports AD/HD diagnosis should be fully described.
- 2. AD/HD evaluation is primarily based on in-depth history consistent with a chronic and pervasive history or AD/HD symptoms beginning during childhood and persisting to the present day. The evaluation should provide a broad, comprehensive understanding of the applicant's relevant background including family, academic, social, vocational, medical, and psychiatric history. There should

be a focus on how AD/HD symptoms have been manifested across various settings over time, how the applicant has coped with the problems, and what success the applicant has had in coping efforts. There should be a clear attempt to rule out a variety of other potential explanations for the applicant's self-reported AD/HD difficulties.

- 3. Objective personality/psychopathology tests are not essential if not indicated. However, they can be helpful to describe the applicant's emotional status and rule out other psychological problems. If not used, there should be a clear explanation why they were not deemed necessary to rule out other potential explanations for reported AD/HD symptoms.
- 4. AD/HD questionnaires and checklists (Wender-Utal, BAADS, etc.) are helpful to quantify self-reported AD/HD symptoms, but can not be used to the exclusion of interview and collateral information describing and documenting past and current symptoms.
- 5. Cognitive test results can not be used as the sole indication of AD/HD diagnosis independent of history and interview. However, these test findings often augment the AD/HD evaluation and should be reported. They are particularly necessary to rule out intellectual limitation as an alternative explanation for academic difficulty, describe type and severity of learning problems, and assess the severity of cognitive deficits associated with AD/HD (inattention, working memory, etc.). In general, the applicant who has completed law school, reporting academic distress secondary to AD/HD symptoms, should demonstrate at least average to above average intelligence.
- 6. The evaluation should indicate a concern with reliability, particularly the reliability of self-report information. There should be some indication that the information provided is reliable, is valid, and has not been unduly influenced by the applicant's motivation to achieve a specified goal.

In order for a petition for testing accommodations based on AD/HD to be processed, the petitioner will be required to submit:

- 1. A petition from the applicant stating the disability, how the disability affects the applicant in the testing environment, the testing accommodations required and how accommodation would put the applicant on an equal basis with other test takers;
- 2. Professional's statement and evaluation resulting from an examination that has been conducted within the last five (5) years and after the applicant's eighteenth (18th) birthday (so that testing is current in light of remediation efforts by the petitioner) on the Committee of Bar Examiners' Form D. Form D is a summary form

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provided as a general guideline to the evaluator for describing AD/HD diagnosis, how the diagnosis qualifies as a "disability"*, how this disability affects the applicant's ability to take the examination, what steps have been taken to ameliorate the AD/HD symptoms, what accommodations are recommended, and why these accommodations are recommended. This summary form should be amended by the professional's complete and comprehensive evaluation report(s). If a past evaluation does not address all of the points in Form D, the evaluator may need to provide additional information addressing these points in detail. Test results and scores should be included:

- Law school statement explaining any accommodations provided to the applicant during law school and the rationale for the accommodations granted, if applicable; and,
- 4. Statement from any other jurisdiction where the applicant was given accommodations for a bar examination, including how the determination of disability was made and the rationale for the accommodation given, if applicable.

Any petition not submitted in a complete form, including the necessary verification forms, test results, evaluations and statements from prior entities that provided accommodations will be deemed incomplete and will be returned to the applicant if all the information is not received within a specified time period.

Complete petitions will be processed in accordance with the review procedures and deadlines established by Rule XVII, *Rules Regulating Admission to Practice Law in California*.

*The evaluator needs to be aware that a diagnosis does not necessarily indicate that a disability is present. A disability involves impairment in a major life activity (such as learning and working). Consequently, if the applicant actually exhibits no impairment in a major life function, a disability is not present. This is of particular note in cases of individuals diagnosed with AD/HD who exhibit above average academic performance in the past without needing accommodations who are currently requesting accommodations. In such a case, there should be a detailed explanation of why accommodations were not utilized in the past, but are being requested at this time.